

OPINION 635

NOTOPHTHALMUS RAFINESQUE, 1820 (AMPHIBIA); ADDITION
TO THE OFFICIAL LIST AS THE NAME TO BE USED FOR THE
EASTERN NORTH-AMERICAN NEWT

RULING.—(1) The generic name *Notophthalmus* Rafinesque, 1820 (gender : masculine), type-species, by monotypy, *Triturus miniatus* Rafinesque, 1820 (a name selected by Baird, 1850, as first reviser, in preference to *Diemictylus* Rafinesque, 1820) is hereby placed on the Official List of Generic Names in Zoology with the Name No. 1482.

(2) The specific name *viridescens* Rafinesque, 1820, as published in the binomen *Triturus viridescens* (a name selected by Cope, 1859, as first reviser, in preference to *Triturus miniatus* Rafinesque, 1820) is hereby placed on the Official List of Specific Names in Zoology with the Name No. 1819.

(3) The following generic names are hereby placed on the Official Index of Rejected and Invalid Generic Names in Zoology with the Name Numbers specified :

- (a) *Diemictylus* Hallowell, 1856 (an unjustified emendation of *Diemictylus* Rafinesque, 1820) (Name No. 1556) ;
- (b) *Diemichylus* Cope, 1859 (an incorrect spelling for *Diemictylus* Rafinesque, 1820) (Name No. 1557) ;
- (c) *Diemictelus* Gunther, 1901 (an incorrect spelling for *Diemictylus* Rafinesque, 1820) (Name No. 1558) ;
- (d) *Notophthalmus* Baird, 1850 (an incorrect spelling for *Notophthalmus* Rafinesque, 1820) (Name No. 1559) ;
- (e) *Notophthalmia* Gray, 1850 (an incorrect spelling for *Notophthalmus* Rafinesque, 1820) (Name No. 1560) ;
- (f) *Notophthalma* Gray, 1858 (an incorrect spelling for *Notophthalmus* Rafinesque, 1820) (Name No. 1561).

HISTORY OF THE CASE (Z.N.(S.) 728)

The present case was submitted in November 1952 by Professor Hobart M. Smith, as a request for the use of the plenary powers to validate *Notophthalmus* Rafinesque which, under the rule of page and line precedence in force at that time, was considered to be an invalid synonym of *Diemictylus* Rafinesque, published on the same page of the same work. This application was supported by Dr. Gerd v. Wahlert of Bremen. The Fourteenth International Congress of Zoology (Copenhagen, 1953), however, revoked the rule in question and restored the "first reviser" principle, so that the use of the plenary powers was no longer necessary to place *Notophthalmus* on the Official List. In 1959 Prof. Smith therefore revised his proposal and, American usage in the intervening period having favoured *Diemictylus*, entirely recast the application in order to present it in as impartial a manner as possible, leaving the Commission

to decide whether *Notophthalmus* should be placed on the Official List, or whether the plenary powers be used to validate *Diemictylus*.

The application was sent to the printer on 7 October 1959 and published on 8 April 1960 in *Bull. zool. Nomencl.* 17 : 205–208. Public Notice of the possible use by the Commission of its plenary powers in the present case was given in the same part of the *Bulletin* as well as to the other prescribed serial publications (*Bull. zool. Nomencl.* 4 : 51–56) and to two herpetological journals. No comment was received.

DECISION OF THE COMMISSION

On 6 March 1961 the Members of the Commission were invited to vote under the Three-Month Rule on Voting Paper (61)2 either for or against the use of the plenary powers to determine the generic name for the eastern North-American newt. A vote for the use of the plenary powers involved the adoption of Alternative A in *Bull. zool. Nomencl.* 17 : 207 ; a vote against the use of the plenary powers involved the adoption of Alternative B in *Bull. zool. Nomencl.* 17 : 208. At the close of the prescribed voting period on 6 June 1961 the state of the voting was as follows :

Votes for the use of the plenary powers (i.e. for validation of *Diemictylus*),—fourteen (14), received in the following order : Riley, Stoll, Hering, Boschma, Dymond, Mayr*, Alvarado, Miller, Bonnet, Tortonese, Kühnelt, Brinck, Lemche, Uchida.

Votes against the use of the plenary powers (i.e. for *Notophthalmus*)—nine (9) : Holthuis, Vokes, Jaczewski, Hemming, Key, Obruchev, Evans, Bradley, Mertens.

Voting Paper not returned—one (1) : Uchida.

Commissioner do Amaral returned a late vote for the use of the plenary powers and Commissioner Poll a late vote against the use of the plenary powers.

On 3 July 1961 the result of the vote taken on Voting Paper (61)2 was reported to the Commission with the following explanation :

“Alternative A, whilst having gained the majority vote, has not obtained the two-thirds majority necessary for a plenary powers decision of the Commission. In accordance therefore with Section J(c) of the Commission’s By-Laws, the vote taken on V.P.(61)2 is treated as a preliminary vote only and the proposals are now re-submitted, on V.P.(61)24, for a final decision. If less than two out of every three members of the Commission voting on V.P.(61)24 vote in favour of the use of the plenary powers to suppress *Notophthalmus* (Alternative A), then Alternative B shall be treated as the decision adopted by the Commission, in accordance with the By-Laws.

“The following comments were submitted by Commissioners with their votes on Voting Paper (61)2 :

“*Francis Hemming* (28.iii.61)—I consider that, when, as here, there is a substantial usage both for the correct name for a given taxon and for an incorrect name for that taxon, preference should be given to the valid name by the Commission and that the plenary powers should accordingly not be

* Commissioner Mayr requested that his vote be counted with the majority, and that only if there were a tie vote would he favour Alternative B (no use of the plenary powers).

used. It is for this reason that in the present case I vote for Alternative B.

"K. H. L. Key (6.iv.61)—Only a great preponderance of usage in favour of an invalid name can justify its validation under the plenary powers. In this case the name that is valid under the Code was used preponderantly in America up to 1953 and still is used preponderantly in Europe, while it is only 'recent' American usage that has 'tended' to favour the invalid name.

"M. Poll. (7.vi.61)—Les règles doivent être appliquées. Faire appel, contre elles, aux pleins pouvoirs de la Commission n'est pas souhaitable et crée un dangereux précédent. Si certains règles donnent lieu à des situations fausses, celles-ci ne doivent pas être tranchées mais attendre revisions des règles qui son inappropriées."

On 3 July 1961 the Members of the Commission were again invited to vote under the Three-Month Rule on Voting Paper (61)24 either for Alternative A or for Alternative B as set out in *Bull. zool. Nomencl.* 17 : 207-208. At the close of the prescribed voting period on 3 October 1961 the state of the voting was as follows :

Votes for Alternative A—five (5), received in the following order : Boschma, Hering, Tortonese, Brinck, Kühnelt.

Votes for Alternative B—fifteen (15) : Holthuis, Lemche, Munroe, Mayr, Vokes, Obruchev, do Amaral, Key, Prantl, Hemming, Riley, Jaczewski, Mertens, Bonnet, Bradley.

Commissioners Alvarado and Poll returned late votes in favour of Alternative B.

On Leave of Absence—three (3) : Evans, Miller, Stoll.

Voting Paper not returned—one (1) : Uchida.

In returning his Voting Paper, Commissioner Bradley wrote (3.x.61) : I strongly agree with Commissioners Hemming, Key and Poll. I believe that the Commission should always be on guard never to use the plenary powers loosely merely to satisfy some temporary convenience.

ORIGINAL REFERENCES

The following are the original references for the names placed on Official Lists and Indexes by the Ruling given in the present Opinion :

- Diemichylus* Cope, 1859, *Proc. Acad. nat. Sci. Philad.* 11 : 128
Diemictelus Gunther, 1901, *Biol. centr.-Amer.*, Zool., Batrach. : 294
Diemictylus Hallowell, 1856, *Proc. Acad. nat. Sci. Philad.* 8 : 6-11
Notophthalmia Gray, 1858, *Proc. zool. Soc. Lond.* 26 : 138
Notophthalmia Gray, 1850, *Cat. Bat. Grad. brit. Mus.* : 22
Notophthalmus Rafinesque, 1820, *Annals. Nat.* : 5
Notophthalmus Baird, 1850, *J. Acad. nat. Sci. Philad.* (2) 1(4) : 284
viridescens, *Triturus*, Rafinesque, 1820, *Annals Nat.* : 5

The following are the original references to first revisers concerned in the present Ruling :

- For *Notophthalmus* Rafinesque, 1820 : Baird, 1850, *J. Acad. nat. Sci. Philad.* (2) 1(4) : 284
 For *Triturus viridescens* Rafinesque, 1820 : Cope, 1859, *Proc. Acad. nat. Sci. Philad.* 11 : 126

CERTIFICATE

WE certify that the votes cast on Voting Papers (61)2 and (61)24 were cast as set out above, that the proposal set out as Alternative B in the latter Voting Paper has been duly adopted, and that the decision so taken, being the decision of the International Commission, is truly recorded in the present Opinion No. 635.

N. D. RILEY

Secretary

W. E. CHINA

Assistant Secretary

International Commission on Zoological Nomenclature

London

24 October 1961

AMENDMENT TO THE PROPOSAL TO VALIDATE UNDER THE
PLENARY POWERS THE SPECIFIC NAME *TROMBIDIUM*
AKAMUSHI BRUMPT, 1910. Z.N.(S.) 400

(see volume 18, pages 140-142)

By W. E. China (*Assistant Secretary to the International
Commission on Zoological Nomenclature*)

In course of voting on this application Commissioner Dr. L. B. Holthuis has insisted that the only way legally to get rid of Kishida's 1909 paper is to suppress it under the plenary powers. After some correspondence between Dr. Holthuis, Dr. C. B. Philip and the Secretary of the Commission, it has been decided to request suppression of Kishida's phantom paper under the plenary powers.